

FIRST REGULAR SESSION

SENATE BILL NO. 63

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0318S.02I

AN ACT

To repeal sections 578.025 and 578.030, RSMo, and to enact in lieu thereof three new sections relating to dog fighting, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 578.025, and 578.030, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 578.025, 578.026,
3 and 578.030, to read as follows:

578.025. 1. Any person who:

2 (1) Owns, possesses, keeps, or trains any dog, with the intent that such
3 dog shall be engaged in an exhibition of fighting with another dog;

4 (2) For amusement or gain, causes any dog to fight with another dog, or
5 causes any dogs to injure each other; or

6 (3) Permits any act as described in subdivision (1) or (2) of this subsection
7 to be done on any premises under his charge or control, or aids or abets any such
8 act is guilty of a class D felony.

9 2. Any person who is knowingly present, as a spectator, at any place,
10 building, or structure where preparations are being made for an exhibition of the
11 fighting of dogs, with the intent to be present at such preparations, or is
12 knowingly present at such exhibition or at any other fighting or injuring as
13 described in subdivision (2) of subsection 1 of this section, with the intent to be
14 present at such exhibition, fighting, or injuring is guilty of a class A misdemeanor
15 **for a first offense and a class D felony for a second or subsequent**
16 **offense.**

17 3. Nothing in this section shall be construed to prohibit:

18 (1) The use of dogs in the management of livestock by the owner of such

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 livestock or his employees or agents or other persons in lawful custody of such
20 livestock;

21 (2) The use of dogs in hunting; or

22 (3) The training of dogs or the use of equipment in the training of dogs for
23 any purpose not prohibited by law.

578.026. 1. Any duly authorized public health official or law
2 enforcement officer may seek a warrant from the appropriate court to
3 enable him or her to enter private property in order to inspect, care
4 for, or impound dogs that are the subject of a violation of section
5 578.025; provided, the sheriff of the county or city not within a county
6 in which the warrant is to be served, or his or her designee, shall be
7 notified upon application by the applicant of the search warrant. The
8 sheriff, or his or her designee, shall participate in serving the search
9 warrant. Any designee of the sheriff shall be a deputy sheriff or other
10 person certified as a peace officer under chapter 590, RSMo. The
11 sheriff shall have a designee available at all times. All requests for
12 such warrants shall be accompanied by an affidavit stating the
13 probable cause to believe a violation of section 578.025 has occurred.

14 2. Any law enforcement officer or public health official, who has
15 probable cause to believe a violation of section 578.025 has occurred
16 and has the authority to make a lawful seizure, shall take possession of
17 all dogs and all paraphernalia, implements, or other property or things
18 used or employed, or about to be employed, in the violation of any of
19 the provisions of section 578.025. Such law enforcement officer or
20 official under this subsection or subsection 1 of this section, after
21 taking possession of such dogs, paraphernalia, implements or other
22 property or things, shall file with the court an affidavit stating therein
23 a description of the property so taken and the time and place of the
24 taking thereof together with the name of the person from whom the
25 same was taken and the name of the person who claims to own such
26 property, if known, and that the affiant has reason to believe and does
27 believe, stating the ground of such belief, that the property so taken
28 was used or employed, or was about to be used or employed, in such
29 violation of section 578.025.

30 3. A person performing a lawful seizure of any dog that is the
31 subject of a violation of section 578.025, whether under the authority
32 of a warrant or not, shall:

33 (1) Be given a disposition hearing within thirty days of the filing
34 of the request for the purpose of granting immediate disposition of the
35 dogs impounded;

36 (2) Place impounded dogs in the care or custody of a
37 veterinarian, the appropriate animal control authority, or an animal
38 shelter. If no appropriate veterinarian, animal control authority, or
39 animal shelter is available, the dog shall not be impounded unless it is
40 diseased or disabled beyond recovery for any useful purpose;

41 (3) Humanely kill any dog impounded if it is determined by a
42 licensed veterinarian that the dog is diseased or disabled beyond
43 recovery for any useful purpose;

44 (4) Not be liable for any necessary damage to property if the dog
45 has been lawfully seized.

46 4. The owner or custodian or any person claiming an interest in
47 any dog that has been impounded because of being the subject of a
48 violation of section 578.025 may prevent disposition of the dog by
49 posting bond or security in an amount sufficient to provide for the
50 dog's care and keeping for at least thirty days, inclusive of the date on
51 which the animal was taken into custody. Notwithstanding the fact
52 that bond may be posted pursuant to this subsection, the authority
53 having custody of the animal may humanely dispose of the dog at the
54 end of the time for which expenses are covered by the bond or security,
55 unless there is a court order prohibiting such disposition. Such order
56 shall provide for a bond or other security in the amount necessary to
57 protect the authority having custody of the dog from any cost of the
58 care, keeping or disposal of the dog. The authority taking custody of
59 a dog shall give notice of the provisions of this section by posting a
60 copy of this section at the place where the dog was taken into custody
61 or by delivering it to a person residing on the property.

62 5. The owner or custodian of any dog humanely killed pursuant
63 to this section shall not be entitled to recover any damages related to,
64 nor the actual value of, the dog if the dog was found by a licensed
65 veterinarian to be diseased or disabled, or if the owner or custodian
66 failed to post bond or security for the care, keeping and disposition of
67 the dog after being notified of impoundment.

 578.030. [1.] The provisions of section 43.200, RSMo, notwithstanding,
2 any member of the state highway patrol or other law enforcement officer may

3 apply for and serve a search warrant, and shall have the power of search and
4 seizure in order to enforce the provisions of sections 578.025 to 578.050.

5 [2. Any member of the state highway patrol or other law enforcement
6 officer making an arrest under section 578.025 shall lawfully take possession of
7 all dogs or other animals and all paraphernalia, implements, or other property
8 or things used or employed, or about to be employed, in the violation of any of the
9 provisions of section 578.025. Such officer, after taking possession of such dogs,
10 animals, paraphernalia, implements or other property or things, shall file with
11 the court before whom the complaint is made against any person so arrested an
12 affidavit stating therein the name of the person charged in such complaint, a
13 description of the property so taken and the time and place of the taking thereof
14 together with the name of the person from whom the same was taken and the
15 name of the person who claims to own such property, if known, and that the
16 affiant has reason to believe and does believe, stating the ground of such belief,
17 that the property so taken was used or employed, or was about to be used or
18 employed, in such violation of section 578.025. He shall thereupon deliver the
19 property so taken to the court, which shall, by order in writing, place the same
20 in the custody of an officer or other proper person named and designated in such
21 order, to be kept by him until the conviction or final discharge of such person
22 complained against, and shall send a copy of such order without delay to the
23 prosecuting attorney of the county. The officer or person so named and
24 designated in such order shall immediately thereupon assume the custody of such
25 property and shall retain the same, subject to the order of the court before which
26 such person so complained against may be required to appear for trial. Upon the
27 conviction of the person so charged, all property so seized shall be adjudged by
28 the court to be forfeited and shall thereupon be destroyed or otherwise disposed
29 of as the court may order. In the event of the acquittal or final discharge without
30 conviction of the person so charged, such court shall, on demand, direct the
31 delivery of such property so held in custody to the owner thereof.]

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